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Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

SECTION 19. EMPLOYEE CLAIMS FOR LOSS OR DAMAGE TO PERSONAL PROPERTY

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-0.1 INTRODUCTION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 02-26-2007 BY 60324 AUC BAW/CPB/STP

The Military Personnel and Civilian Employees' Claims Act of 1964 provides for the settlement of claims against the United States by civilian officers and employees of the Department of Justice for damage to or loss of personal property incident to their service with the Department. Authority for handling such claims was

vested in the Attorney General for employees of the Department of Justice, and authority to settle all claims of Bureau employees has been delegated to the Director by Department of Justice Order|2110.23C|effective|December 13, 1991.|

**EffDte: 04/22/1998 MCRT#: 778 Div: FD Cav: SecCls:

19-1 SETTLEMENT OF CLAIMS

(1) "Settle" means consider, ascertain, adjust, determine, and dispose of any claim, whether by full or partial allowance or disallowance. All claims filed under the Act are subject to the approval of the Director.

(2) The acceptance of an award by the claimant constitutes a release for the United States of all liability to the employee based on the occurrence giving rise to the claim for which the award is made. The claimant accepts an award upon negotiation of the settlement check. Prior to negotiating the settlement check, a claimant may discuss the amount of the award with the approving official.

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-2 ALLOWABLE DAMAGES AND/OR LOSSES

Claims are allowable under the Act for damage to or loss of personal property if:

(1) Such damage or loss was incident to the employee's

SENSITIVE

SENSITIVE

Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

service with the Department and the possession of that property is determined to be reasonable, useful, or proper under the particular circumstances involved.

(2) Such damage or loss was not caused either wholly or partially by the negligent or wrongful act of the claimant, his/her agent, dependent or co-worker. Negligence is defined as the failure to exercise the care which a reasonable and prudent person would have exercised under the same or similar circumstances.

(3) Such damage or loss involved:

(a) Personal property located in quarters when such quarters were assigned or provided in kind by the Federal Government, or when such quarters are located outside the United States and the employee involved is not a local or native resident of the area.

(b) Personal property located in a storage place designated or authorized by the employee's supervisor or an official who has been delegated the authority to approve such authorization for storage of the property.

(c) Personal property, including personal clothing, subjected to extraordinary risks in the performance of duty, or hazardous circumstances beyond the control of the employee while at the place of employment. (Ordinarily, a sudden, unexpected act of God does not constitute an extraordinary risk.)

(d) Personal property transferred under a Government Bill of Lading, or by a commercial carrier which operates in intrastate or interstate commerce under an authorized certificate or permit relative to a change of duty station or other authorized transfer or travel.

(e) Property owned by the United States when the employee is financially responsible for it.

(f) Personal property used for the benefit of the Government at the direction of a superior authority.

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-3 DAMAGES AND/OR LOSSES NOT ALLOWABLE

Claims are not allowable under the Act for damage to or loss of personal property if:

(1) The loss or damage occurred at quarters occupied by the claimant within one of the fifty states or the District of Columbia, unless the quarters were assigned to him/her or otherwise provided in kind by the Government.

SENSITIVE

SENSITIVE

Man1-ID: MAOPPI MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

(2) Such damage or loss involved:

- | (a) Property used primarily in Government offices
| for the personal convenience, gratification, comfort, diversion, or
| entertainment of the employee.
- | (b) Property acquired for sale, or being used for
| personal business or profit.
- | (c) Property acquired, possessed or transported in
| violation of law or regulations.
- | (d) Amounts recoverable from insurers or carriers,
| or pursuant to the performance of a contract.
- | (e) Transportation losses involving baggage,
| household goods, or other shipments if the claimant chose an
| unlicensed carrier without obtaining prior approval from the Director
| or the official who authorized the employee's change of station.
- | (f) Contractors or other persons who, while under
| contract to the Government, caused an incident which resulted in the
| loss or damage to an employee's personal property. Though the
| Government is secondarily responsible primary liability rests with the
| contractor. (The term "contractor" excludes those carriers referred
| to in 19-2 (3)(d).)
- | (g) Motor vehicles or trailers when mileage payment
| is authorized, unless extraordinary risks are involved that would
| permit the employee to be covered by 19-2 (3)(c). (Generally,
| uninsured collisions resulting from wanton negligence when mileage is
| authorized are not compensable under the Act.)
- | (h) Loss or damage of articles sent through United
| States or international mail systems, or loss or damage of articles of
| extraordinary value. Such articles should be insured by owners. (See
| 19-12.)
- | (i) Money and currency, unless it can be shown that
| the employee is required by the nature of his/her assignment to carry
| money or currency. Reimbursement for loss of money or currency shall
| be limited to an amount determined to have been reasonable for the
| claimant to have had in his/her possession at the time of the
| incident. It must be conclusively shown that the money or currency
| was in a locked container and that the quarters themselves were
| locked, or that the loss was the direct result of an incident
| occurring because the employee was known to be on official business.

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-4 INFORMATION TO EMPLOYEES - INSURANCE

SENSITIVE

SENSITIVE

Man1-ID: MAOPF1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

Most claims for damages to or loss of personal property arise during shipment and storage of household goods incident to permanent changes of station. Employees should be informed prior to such moves of the contents and applicability of this Order. They should also be informed of the advisability of obtaining commercial insurance to cover such shipments since damages or losses that can be paid are limited by the Act and repayment for damages or losses incurred may not be as rapid as the payment of insurance claims. Such insurance is desirable to cover claims specifically excluded or limited by this Order. Employees should be advised of the difference between losses covered by carriers based on released weight of shipments and losses covered by commercial insurance.

**EffDte: 08/29/1990 MCRT#: 0 Div: FD Cav: SecCls:

19-5 CLAIMS INVOLVING PARTIES OTHER THAN THE GOVERNMENT

In cases where loss or damage of personal property has occurred, employees are cautioned not to sign a release, or a statement containing a release, if there is a possibility of recovery against a carrier, warehouser, insurer or other contractor. Employees must file and diligently pursue any claim they may have against parties other than the Government prior to submission of a claim under the Act. Employees are further cautioned not to sign any release or statement that property was received in good condition unless and until they have performed a reasonable inspection and are satisfied that no loss or damage occurred. Failure to file and pursue such a claim, or the signing of a release or statement of arrival in good condition will prejudice the handling of the claim under the Act.

**EffDte: 08/29/1990 MCRT#: 0 Div: FD Cav: SecCls:

19-6 ASSIGNMENTS

A claimant shall subrogate, i.e., assign, to the United States Government his/her right, title and interest in any claim he/she may have against a carrier, insurer or other party for damage to or loss of personal property for which a settlement was received under the Act. The assignment shall extend to the amount of the settlement payment accepted by the claimant. In addition, the claimant shall furnish the Department such evidence as may be necessary to enforce the claim against the carrier, insurer, or other party. After payment of his/her claim by the United States, the claimant will, upon receipt of any payment from a carrier or insurer, pay the proceeds to the United States to the extent of the payment received by him/her from the United States. Such amount should be forwarded by the claimant to the Relocation Management

SENSITIVE

SENSITIVE

Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

| Office, Property Procurement and Management Section, Finance|Division.

**EffDte: 12/07/1993 MCRT#: 133 Div: FD Cav: SecCls:

19-7 LIMITATION OF ATTORNEY FEES

No more than 10 percent of the amount paid in settlement of each individual claim shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with that claim (Title 31, USC, Section 243).

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-8 FILING OF CLAIMS

All claims allowable under the Act shall be filed with the Director, FBI, in accordance with the procedures set forth herein.

(1) WHO MAY FILE A CLAIM

(a) A claim may be filed by any civilian officer or employee of the Department for damages to or loss of personal property incident to his/her service in the Department.

(b) If a person is deceased, an allowable claim may be filed by the personal representative of the decedent's estate, or the decedent's surviving spouse, children, father or mother or both, or brother(s) or sister(s) or both, provided such claim arose before, concurrently with, or after the decedent's death. Claims of survivors shall be settled and paid in the order listed.

(c) Claims filed by an agent or legal representative of a claimant must be supported by a power of attorney or other satisfactory evidence of authority to file on behalf of the claimant.

(2) TIME LIMITATION ON FILING CLAIMS

| (a) A claim should be presented as soon as possible after discovery of the damage or loss. Immediate action by a claimant will facilitate the processing of his/her claim. Delays cause difficulty in securing statements of essential witnesses and necessary documents. In order for any claim to be considered for any form of settlement, it must be presented in writing within a two-year period after the occurrence of the loss, except that if the loss occurred in time of war or in time of armed conflict in which the claimant is a government participant, or if such a war or armed conflict intervenes within two years after the occurrence of the loss and good cause is shown, the claim may be presented not later than two years after that

SENSITIVE

SENSITIVE

Man1-ID: MAOPPI MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

cause ceases to exist, or two years after the war or conflict is terminated, whichever is earlier. For purposes of the Act, the beginning and ending of an armed conflict are the dates established by concurrent resolution of Congress or by a proclamation of the President.

| (b) If personal property remains in storage after
| the expiration date of legal entitlement to storage at government
| expense, the claim accrues on the date of expiration of legal
| entitlement to storage at government expense.|

(3) MAXIMUM AMOUNTS ALLOWABLE UNDER THE ACT

(a) The maximum amount which may be paid for a single claim is \$40,000. The submission of two or more claims arising from the same incident in order to circumvent the statutory ceiling is prohibited. However, if upon submission of a claim additional losses or damage are discovered, supplemental claims may be filed but all the claims shall be processed and considered as one claim under the Act.

(b) Claims for Damage in Foreign Countries.
Employees with claims arising from incidents occurring in foreign countries may be paid an amount not to exceed \$40,000. On paying a claim that arose in a foreign country, the government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the government made payment.|

| (c) |Deleted|

| (d) |Deleted|

(4) SUBMISSION OF CLAIM

All claims shall be submitted on Form DOJ-110 (January, 1980) "Employee Claim for Loss or Damage to Personal Property," and Form DOJ-110A, "Schedule of Property." Upon completion of the applicable sections, the claimant shall forward the original and two copies of the form(s) together with appropriate supporting evidence to either his/her supervisor or the official who authorized the use, transfer, etc., of the personal property.

(5) PROCESSING OF CLAIMS

The Relocation Management Office at FBIHQ has the responsibility for processing and adjudicating claims for loss/damage to employees' personal property incident to their service with the FBI. Claims will be submitted on DOJ Forms 110 and 110A to FBIHQ, Attention: Relocation Management Office, Room 1839. The following documents MUST be attached to DOJ Forms 110 and 110A when filing a claim:

(a) Copy of estimate of repairs/replacement (where applicable).

(b) Copy of receipts for repaired/replaced item

SENSITIVE

SENSITIVE

Man1-ID: MAOPPI MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

(where applicable).

(c) Copy of Carrier's Descriptive Inventory.

(d) Any other documents or photographs to support loss/damage as claimed.

**EffDte: 04/22/1998 MCRT#: 778 Div: FD

Cav:

SecCls:

19-9 EVIDENCE IN SUPPORT OF CLAIM

The burden of proof as to the loss or damage of personal property and the value of such property rests with the claimant. The extent of documentation required in support of a claim shall be determined by the official authorized to settle claims. The following documentation should be provided as a minimum, when applicable, by the claimant when submitting his/her claim:

(1) One itemized repair estimate, one estimate as to the value of property prior to damage, and/or one estimate for replacement cost.

(2) A copy of the document authorizing, assigning, or providing the location where the personal property was located at the time the loss or damage occurred.

(3) Evidence, in those cases where a possibility of recovery exists against a carrier, warehouse, insurer, or other contractor, that a claim was filed and denied or there was a refusal to pay the claim in full. The reasons for the denial or refusal to pay in full should be included as part of this evidence.

(4) Statements of witnesses and/or other persons having personal knowledge of the facts underlying the claim.

(5) A copy of the travel authorization if personal property was lost or damaged while in transit and/or while in temporary storage during the transit process.

(6) A power of attorney or other satisfactory evidence of authority to file when the claim is filed by an agent or legal representative of the claimant.

(7) Where a report of loss or damage has been made to local authorities, the case or report number, date, and identity of the officer to whom the report was made. Same as to claims made to carriers and insurers.

**EffDte: 10/30/1984 MCRT#: 0

Div: FD

Cav:

SecCls:

SENSITIVE

19-10 SUPERVISORY REVIEW

The facts and circumstances surrounding the damage to or loss of the claimant's personal property shall be reviewed by the claimant's supervisor or the official who requested the use of such personal property. This individual, if satisfied that the article(s) in question was in fact reasonable, useful, or proper under the circumstances existing at the time and place of the incident, and also if in his/her opinion the damage or loss was not caused by the negligent or wrongful act of the claimant, his/her agent, dependent or co-worker, then that individual will certify his/her concurrence on the Form DOJ-110 (January, 1980), or if unsatisfied as to the bona fides of the claim, official shall indicate his/her nonconcurrence and forward the claim and all other supporting documentation and justification to the Property Procurement and Management Section, Finance Division, FBIHQ, for review, evaluation, and investigation of the claim. Form DOJ-110 and all supporting evidence shall comprise a claim file.

**EffDte: 03/07/1994 MCRT#: 208 Div: FD Cav: SecCls:

19-11 DETERMINING VALUE OF DAMAGED OR LOST PERSONAL PROPERTY

All amounts claimed, recommended, approved or disapproved shall be computed under the guidelines set forth herein.

(1) Factors for Determination of Compensation - Compensation allowable for an item of personal property shall not exceed the depreciated value of the item at the time of its damage or loss. Depreciated value shall be determined by taking into consideration the following factors:

(a) Replacement Cost - The value of damaged or lost personal property is primarily based on the replacement cost at the claimant's duty station at the time of the incident. Replacement cost should be computed on the basis of a new item which is identical to or substantially similar in nature to the item which was damaged or lost. However, in no case shall the replacement cost, within reasonable limits, exceed the original cost of acquiring the item. In these situations, employees should obtain adequate insurance coverage to guard against unusual losses. (See 19-4.)

(b) Estimated (Appraised) Value - If the cost of replacing a damaged or lost item of personal property cannot be accurately placed because of the uniqueness or individuality of the item or for other reasons, valuation may be dictated by qualified, reputable, and credible evidence of value at the time of the incident. (See 19-12 on items of extraordinary value.) Appraisals and/or other evidence shall be furnished to ascertain the credibility, reliability, and impartiality of the claim, the appraisal and the resulting valuation.

SENSITIVE

Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

(c) Adjusted Value - If the value of damaged or lost personal property cannot be determined by other means, the purchase price, or value, at the time of acquisition shall be adjusted to reflect the increased cost of replacing the item resulting from the declining value of the dollar. Sufficient information shall be furnished to enable a sound evaluation to be conducted to arrive at a fair valuation.

(d) Depreciation - Depreciation represents the decrease in the value of an item due to wear and tear, natural deterioration, obsolescence, lack of care and depletion. The rate of decrease varies by type of property. Rates of depreciation for various types of property are found in the Table of Rates of Depreciation.

(e) Salvage - Salvage value represents that portion of the cost of personal property that is recovered at the end of its productive life. Some articles such as typewriters and automobiles are traded in on similar assets at the end of their useful life. Generally, the salvage values of such articles are their trade-in values. Ordinarily, other articles of personal property possess no trade-in value and little or no salvage value but may possess scrap value for its intrinsic material content. Salvage value will be based on the most reliable estimates available and shall be included in all claims where its effect is material.

(f) Collectibles - A collectible is any amount due an individual from an insurance company, carrier, or other person resulting from damage to or loss of an insured article of personal property, or an article lost or damaged while under the care of a carrier or other person.

(g) Cost of Repair - If the property can be economically repaired, the allowable compensation is the actual or estimated net cost of repairs necessary to restore the property to substantially the condition which existed immediately before the damage. The cost of repairs may be established by a receipted bill or one estimate signed by reputable dealers or repairers. If the cost of repairs exceeds the depreciated value of the item at the time of damage, then the depreciated value shall be used as the maximum basis for compensation. Claims are not normally payable for fees paid to obtain estimates of repair (or appraised values) in conjunction with submitting a claim under this Act. However, where, in the opinion of the approving officer, the claimant could not obtain an estimate without paying a fee, such a claim may be considered in an amount reasonable in relation to the value and/or the cost of repairs of the articles involved, provided that the evidence furnished clearly indicated that the amount of the fee paid will not be deducted from the cost of repairs if the work is accomplished by the estimator.

(h) Depreciated Value - Depreciated value is that value which remains after depreciation is applied against the replacement cost, estimated value, or adjusted value of an item of damaged or lost personal property. The depreciated value shall be the

SENSITIVE

SENSITIVE

Manl-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

maximum amount to be awarded in settlement of a claim filed under the Act.

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-12 ITEM OF EXTRAORDINARY VALUE

An item of extraordinary value is not totally compensable under the Act. An item of extraordinary value is one which because of extraordinary quality of workmanship or design, the high value of materials it contains, or its association with a past event or period, or historical figure, possesses a value far beyond the usual value of an item of like nature. Such an item includes those articles which primarily serve an artistic or decorative purpose, or which are collector's items and should be insured by employees as stated in 19-4. For purposes of this order, an item of extraordinary value is any single item; i.e., painting, china cabinet, or set of items such as silverware or china which has a value in excess of \$3,000. Reimbursement for loss or damage to an item of extraordinary value shall be limited to \$3,000.

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

19-13 EMERGENCY PARTIAL PAYMENTS

Quite frequently a claimant is in immediate need of funds to replace damaged or destroyed property and avoid unnecessary hardship and inconvenience. An emergency partial payment is authorized under the following circumstances:

- (1) A hardship situation must exist;
- (2) The total amount claimed is within the monetary jurisdiction of the approving or settlement authority involved; and
- (3) It is determined that the claim is clearly payable under the Act, in an amount exceeding the amount of the proposed emergency payment. Prior to making any advance payment, the authority approving such payment normally will obtain an executed acceptance agreement from the claimant or his/her representative in the language and format indicated below:

EMERGENCY PARTIAL PAYMENT ACCEPTANCE AGREEMENT

(Date)

I, _____, agree to accept the sum of \$_____ as a partial payment in order to alleviate immediate need and in partial

SENSITIVE

SENSITIVE

Man1-ID: MAOPPI MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

| settlement of my claim for (property damage) (property loss) sustained
| by me as the result of an incident on _____ involving a
| (shipment of household goods) (loss in quarters) _____.
| (other)

| I understand that this amount will be deducted from any award made in
| final settlement of my claim.

| _____
| (Claimant's signature)

| _____
| (Name printed) |

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

||19-14| INSTRUCTIONS FOR PREPARING FORM DOJ-110

Complete an original and two copies in accordance with the
instructions in the following paragraphs which are keyed to the form
on|a|following page.

(1) Name of Claimant - Enter the full name of the
claimant. If the claimant is other than the employee, enter the name
of the employee in parentheses below that of the claimant.

(2) Title of Position - Enter the position of the
employee at the time the loss or damage occurred.

| (3) Address of Claimant (Include|ZIP|Code) - Enter the
current mailing address of the claimant.

(4) Office Where Employed/Telephone No. - Enter the name
of the office (organizational unit) which employed the employee at
the time the loss or damage occurred.

(5) Location of Office (at Time of Incident) - Enter the
name of city and state where the employee's office was located at the
time the loss or damage occurred.

(6) Social Security No. - Enter the social security
number of the claimant.

(7) Location Where Loss or Damage Occurred - Enter the
address of the building where the property was located when the loss
or damage occurred. If the property was in transit, state the point
of origin and destination.

(8) Date of Loss or Damage - Enter the date on which the
loss or damage occurred. If the property was in transit and the date
is not known, indicate the dates on which the property was in transit.

SENSITIVE

SENSITIVE

Manl-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

(9) Facts and Circumstances of the Incident - State in detail all the facts and circumstances under which the loss or damage occurred.

(10) Affirmations and Claimant Certification - Answer in the appropriate block either "Yes" or "No" for each of the indicated questions. The claimant shall then sign his/her full signature and date. When signing this claim, the claimant certifies that he/she is entitled to any payments made and is aware of penalties for willfully making a fraudulent claim.

(11) Amount of Claim - Enter the sum of the figures from the amount claimed column of the Schedule of Property (DOJ-110A). From this total subtract any amount collected or collectible from an insurance company or carrier to arrive at the total amount claimed.

(12) Supervisory Certification - Have the employee's supervisor or the cognizant supervisory official who corrected the use of the article(s) in question attest to the validity and propriety of the claim by signing and dating the claim.

(13) Claims Recommendation - Leave blank. This section is to be completed by the reviewing official.

(14) Approval of Claim - Leave blank. This section is to be completed by the settling official.

(15-17) Voucher No., Schedule No., Paid by Check No. - Leave blank. To be completed by accounting officials.

(18) Accounting Classification - Leave blank. To be completed by accounting officials.

NOTE: See sample of Form DOJ-110 which follows.

FORM NOT VIEWABLE IN AUTOMATED MANUAL

**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

||19-15| INSTRUCTIONS FOR PREPARING FORM DOJ-110A

Complete an original and one copy in accordance with the instructions in the following paragraphs which are keyed to the form.

(1) Claimant - Enter the full name of the claimant. If the claimant is other than the employee, enter the name of the employee in parentheses below that of the claimant.

(2) Page of - Consecutively number each page of the Schedule of Property. Indicate the total number of pages comprising the schedule. This information will ensure that all pages are accounted for.

SENSITIVE

SENSITIVE

Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

(3) Line Number - Consecutively number each article listed.

(4) Description of Article - Enter the name of the article. If known, also enter the brand, manufacturer and model, serial or ID number, or other information available to more specifically describe the article. For claims regarding household goods, include inventory item number as listed on carriers' Household Goods Descriptive Inventory.

(5) Nature and Extent of Damage

(a) Describe the nature and extent of damage received by each damaged article listed.

(b) Insert the word "missing" next to each lost article listed.

(6) Date of Purchase or Acquisition - Enter the month and year for purchase or acquisition. When the month is unknown, enter June. When the exact year is unknown, enter the best estimate.

(7) Value of Item/Basis - Enter the value of the lost or damaged article of personal property less applicable salvage value. The value of the item shall be based upon either the replacement cost, the estimated value as supported by appraisals, or the original purchase price if known. The basis upon which the article is valued should be indicated by inserting after the value either an "R" for replacement cost, "E" for estimated value, or "O" for original purchase price.

(8) Depreciation (Rate) - Leave blank. This column to be utilized by the adjudicating officer.

(9) Depreciation Amount - Leave blank. This column to be utilized by the adjudicating officer.

(10) Maximum Amount Allowable - Leave blank. This column to be utilized by the adjudicating officer.

(11) Cost of Repairs - Enter the cost of repairing a damaged item of personal property as supported by a receipted bill or estimate signed by a reputable dealer. If the item is missing, then insert an "N/A" in this column to indicate that this step is not applicable.

(12) Amount Claimed. Enter the amount which is claimed.

(13) and (14) Reserved for Reviewing Official. Leave blank. These columns are to be utilized by the reviewing officials.

NOTE: See sample of Form DOJ-110A which follows.

| Sample: DOJ-110A |

SENSITIVE

SENSITIVE

Man1-ID: MAOPP1 MANUAL OF ADMIN OPERATIONS AND PROCEDURES PART 1

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**EffDte: 10/30/1984 MCRT#: 0 Div: FD Cav: SecCls:

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SENSITIVE